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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181621
Party	Plaintiff StonCor Group, Inc.
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Submission	Other Motions/Papers
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Signature	/CHARLES N. QUINN/
Date	01/29/2009
Attachments	Response & Opposition to Applicant Motion - 91181621.pdf ( 3 pages )(43308 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

StonCor Group, Inc.,	:	
	:	
Opposer,	:	
	:	Opposition No. 91181621
v.	:	
	:	Ser. No. 76650832
Les Pierres Stonedged Inc.,	:	
	:	
Applicant.	:	

**RESPONSE AND OPPOSITION BY OPPOSER, STONCOR GROUP, INC.,  
TO MOTIONS OF APPLICANT, LES PIERRES STONEDGE, INC.  
SERVED AND FILED ON 13 AND 22 JANUARY 2009**

On 13 January 2009 applicant, Les Pierres Stonedged, Inc., served and filed a motion entitled “Motion for Judgment for Opposer’s Failure to Prove Case”.

On 22 January 2009 applicant, Les Pierres Stonedged, Inc., served and filed a motion entitled “Amended Motion for Judgment for Opposer’s Failure to Prove Case”.

On 23 January 2009 applicant, Les Pierres Stonedged, Inc., served and filed a motion entitled “Second Amended Motion for Judgment for Opposer’s Failure to Prove Case”.

In the 13 January motion applicant Les Pierres Stonedged, Inc. contended that opposer StonCor Group, Inc. did not take any testimony or offer any other evidence during the StonCor Group testimony period, which applicant Les Pierres Stonedged, Inc. alleged closed on 6 January 2009. On such basis applicant Les Pierres Stonedged, Inc. in the 13 January 2009 motion moved for dismissal of the instant opposition on the ground that opposer StonCor Group, Inc. had shown no right to relief.

The 22 January motion set forth averments in the first seven paragraphs essentially identical to those of the 13 January motion.

In the eighth paragraph of the 22 January 2009 motion applicant stated that, “[B]ecause copies of the registrations attached as exhibits to the notice of opposition were properly introduced into evidence in accordance with 37 CFR §2.122(d)”, applicant averred that applicant’s June (sic) 13, 2009 motion was more properly a motion for judgment under 37 CFR 2.132(a).

In its 22 January motion applicant then stated that it was moving for dismissal of the opposition

on the ground that opposer StonCor Group had allegedly failed to prosecute the instant opposition pursuant to 37 CFR 2.132(a). Applicant further moved, in the alternative, for dismissal of the opposition on the grounds that opposer had allegedly shown no right to relief pursuant to 37 CFR 2.132(b). This was the same averment as in applicant's 13 January 2009 motion.

The 23 January 2009 motion set forth averments in paragraphs 1, 3, 4, 5, 6, 7 and 8 using language essentially identical to corresponding allegations of the 13 January and 22 January motions.

However, in the 23 January 2009 motion applicant Les Pierres Stonedge, Inc. reversed its course in paragraphs 2 and 9 and alleged that the copies of the registrations attached to the notice of opposition were purportedly "not properly made of record" (paragraph 2) and "not properly introduced as evidence in accordance with 37 CFR 2.122(d)" (paragraph 9). Applicant then averred that its June (sic) 13, 2009 motion was more properly a motion for judgment under §2.132(a). Applicant asserted the same bases for dismissal as set forth in the motions of 13 January and 22 January 2009.

Opposer StonCor Group respectfully submits that applicant's 22 January 2009 motion supplanted applicant's 13 January 2009 motion, and that applicant's 23 January 2009 motion supplanted applicant's 22 January 2009 motion. Accordingly, opposer StonCor Group respectfully submits that no further response is required to applicant's motions of 13 January 2009 and 22 January 2009. Opposer intends to respond on a substantive basis to applicant's 23 January 2009 motion on or before the limiting date of 12 February 2009.

In the event the Board does not share opposer's view as respecting applicant's 22 January 2009 motion supplanting applicant's 13 January 2009 motion and applicant's 23 January 2009 motion supplanting applicant's 22 January 2009 motion, opposer StonCor Group respectfully requests notification of the same in order that StonCor Group may respond to those motions on the merits.

Respectfully submitted,

Date: 29 January 2009

/CHARLES N. QUINN/  
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Opposer,	:	
	:	Opposition No. 91181621
v.	:	
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Les Pierres Stonedged Inc.,	:	
	:	
Applicant.	:	

**CERTIFICATE OF SERVICE**

I, Charles N. Quinn, of full age, by way of certification, state that a copy of Response and Opposition by Opposer, StonCor Group, Inc. to Motions Applicant, Les Pierres Stonedged, Inc. Served and Filed on 13 and 22 January 2009, was sent to applicant's counsel on the date set forth below via electronic mail and by first class mail, postage prepaid, addressed as follows:

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Date: 29 January 2009

/CHARLES N. QUINN/  
Charles N. Quinn